

REMARKS

Claims 1-4 and 6-15 are pending. Claims 1 and 9 have been amended. Claims 16 and 17 have been added. Claims 1-4 and 6-17 presently are pending.

The Examiner has objected to the drawings. Applicant has submitted a new set of formal drawings with this response.

Claims 1-4 and 6-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,620,448 to Puddu in view of U.S. Pat. No. 6,200,347 to Anderson et al. This rejection is traversed.

Claim 1 recites a method of correcting a deformity by performing an osteotomy in a bone at an osteotomy site using a bone plate. The method includes resecting the bone from a first side of the bone to a second side of the bone so as to leave a bony hinge on the second side, opening the resection to a height at which the deformity is corrected using an opening tool, and placing the bone plate in a location such that the bone plate spans the open resection. The method further includes removing the opening tool, and packing the open resection with at least two individual, unconnected pre-formed wedge shaped sections of material.

Claim 9 recites a method of correcting a deformity by performing an osteotomy in a bone at an osteotomy site using a bone plate. The method includes resecting the bone from a first side of the bone to a second side of the bone so as to leave a bony hinge on the second side, inserting an opening tool into the resection, and opening the resection using the opening tool to a height at which the deformity is corrected. The method also includes placing the bone plate in a location such that the bone plate spans the open resection, removing the opening tool, and packing the resection with at least two individual, unconnected pre-formed wedge shaped sections of material.

Puddu teaches on opening wedge osteotomy technique in which the open resection is packed with autologous bone. Puddu does not teach or suggest an osteotomy

method which includes inserting at least two individual, unconnected pre-formed wedge shaped sections into the open resection.

Anderson et al. does not cure the deficiencies of Puddu. Anderson et al. discloses a composite bone graft. The composite bone graft includes two or more *connected* bone portions held together using biocompatible connectors. The Examiner asserts that Anderson “teaches the benefit of using at least two individual pre-formed wedge shaped sections of material to increase stability and does not shift, extrude or rotate after implantation.” Read in context, however, the increased stability of the implant disclosed by Anderson et al. results from its interconnected composite structure. Anderson et al. does not teach or suggest a method of osteotomy preformed by inserting two individual, unconnected pre-formed wedge shaped sections into the open resection. The Examiner concludes that “it would have been obvious to modify Puddu to use a composite bone graft as taught by Anderson to provide a bone graft that has greater stability and does not shift, extrude or rotate after implantation.” Applicant respectfully submits that the Examiner’s statement is inapposite. Even if Puddu could be modified as suggested by the Examiner, the present invention does not result from the proposed combination. On the contrary, the resulting combination would provide an opening wedge osteotomy packed with a single composite bone implant. Consequently, Anderson et al. teaches away from, rather than suggesting, a method of inserting two separate, unconnected wedge shaped sections of material into a resection. Claims 1 and 9, and their respective dependent claims 2-4, 6-8, and 16, and 10-15 and 17 are submitted as patentable over the cited references to Puddu and Anderson et al.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Puddu and Anderson et al., further in view of U.S. Pat. No. 4,563,489 to Urist. This rejection is traversed.

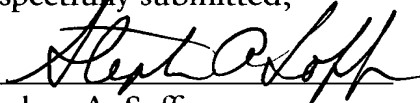
Claim 15 depends from claim 9, which is submitted above as patentable over the cited references to Puddu and Anderson et al. Urist does not cure the deficiencies of the Puddu and Anderson et al. references. Urist has been cited as teaching a biodegradable PLA polymer combined with tricalcium phosphate in making implants. Urist does not

teach or suggest an osteotomy method performed by inserting two individual, unconnected pre-formed wedge shaped sections into an open resection. Claim 15 is submitted as patentable over the cited references to Puddu, Anderson et al, and Urist.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: June 15, 2004

Respectfully submitted,

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